



Federal Communications Commission
Washington, D.C. 20554

November 30, 2022

DA 22-1240

Via Email and Certified Mail, Return Receipt Requested

The ERIE Radio Company, LLC
Mr. Richard F. Rambaldo
6300 Echo Hill Lane
Fairview, PA 16415

**Re: The ERIE Radio Company's Final Default Payment Obligation
for Construction Permit Won in Auction 98**

DO NOT DISCARD THIS IMPORTANT NOTICE
OF A DEMAND FOR PAYMENT
OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT

Dear Mr. Rambaldo:

This Order provides notice and demands payment of a debt owed to the United States based on the default of The ERIE Radio Company, LLC (Erie) on its down payment for a construction permit it won in Auction 98. Erie was the winning bidder in Auction 98 for FM construction permit MM-FM1090-A at Westfield, New York.¹ After the close of that auction, Erie failed to make its required down payment for the permit by the deadline established under Section 1.2107(b) of the Commission's rules; its request for waiver of that deadline was denied, and because ERIE defaulted on its winning bid, it was assessed an interim default payment.²

At the time of the interim default payment assessment, the Commission explained that it could not determine the full amount of Erie's default payment until a construction permit covering the same spectrum is won in a subsequent re-auction. An FM construction permit for the Westfield, NY allotment was offered in Auction 109, and because it received a winning bid,³ the Commission now is able to calculate Erie's final default payment obligation with respect to this construction permit.⁴ Pursuant to the Commission's rules,⁵ Erie owes a default payment, which is a debt owed to the United States.⁶

¹ Erie was the winning bidder for the Westfield permit with its net winning bid of \$535,500. *Auction of FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction 98*, AU Docket No.15-3, Public Notice, 30 FCC Rcd 8313 (2015) (*Auction 98 Closing Public Notice*).

² See *The ERIE Radio Company, LLC*, Memorandum Opinion and Order, 32 FCC Rcd 3890 (WTB/MB 2017) (*Erie Waiver Order*).

³ Erie was again the winning bidder with a net bid amount of \$16,250. *Auction of AM and FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction 109*, AU Docket No. 21-39, Public Notice, 36 FCC Rcd 12478 (2021) (*Auction 109 Closing Public Notice*).

⁴ 47 CFR § 1.2104(g)(2).

⁵ 47 CFR §§ 1.2104(g)(2), 1.2109(b).

⁶ 31 U.S.C. § 3701(b)(1). See also *Erie Waiver Order*, 32 FCC Rcd 3890.

Under the Commission's rules, at the close of an auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid.⁷ A bidder who defaults on that obligation or is disqualified is subject to a default payment.⁸ The default payment has two components: a deficiency payment and an additional payment amount.⁹ The deficiency payment component applies only in the event that the subsequent winning bid the next time a construction permit for the allotment is won is less than the defaulted bid. The deficiency payment amount is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or, the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less.¹⁰ The additional payment amount is owed by each defaulting bidder.¹¹ Pursuant to the rule in effect for Auction 98, the additional payment is equal to twenty percent (20%) of the defaulter's bid, or the subsequent winning bid, whichever is less.¹²

As shown in Attachment A, we have completed the final default payment calculation in accordance with 47 CFR § 1.2104(g)(2), and, after applying the monies Erie has on deposit, ERIE has a remaining balance of \$13,000 on deposit, which is available for refund.¹³

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, as well as section 1.2104(g)(2) of the Commission's rules, 47 CFR § 1.2104(g)(2), The ERIE Radio Company, LLC is ASSESSED a final default payment obligation of \$522,500 as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to sections 1.2104 and 1.2106 of the Commission's rules, 47 CFR §§ 1.2104, 1.2106, Erie's interim payment or funds on deposit will be applied towards satisfying this final default payment.

⁷ *Id.*

⁸ 47 CFR §§ 1.2104(g)(2), 1.2109.

⁹ 47 CFR § 1.2104(g)(2).

¹⁰ 47 CFR § 1.2104(g)(2)(i).

¹¹ 47 CFR § 1.2104(g)(2).

¹² *Id.*

¹³ For Auction 98, Erie has an amount of \$535,500 on deposit with the Commission. After deducting the final default payment assessment of \$522,500, it has an outstanding balance on deposit of \$13,000.

IT IS FURTHER ORDERED that this Order shall be sent to The ERIE Radio Company, LLC by certified mail, return receipt requested. This action is taken pursuant to authority delegated by sections 0.21(m) and 0.271 of the Commission's rules, 47 CFR §§ 0.21(m), 0.271.

Sincerely,

Gary D. Michaels
Deputy Chief, Auctions Division
Office of Economics and Analytics

Attachments

ATTACHMENT A

Multi-Auction Default Payment Report

Construction Permit Identification	Defaulted Gross Bid Auction 98	Defaulted Net Bid Auction 98	Re-Auction Gross Bid Auction 109	Re-Auction Net Bid Auction 109	Lower Difference Payment	Additional Default Payment	Final Payment
MM-FM1090-A Westfield, NY	\$714,000.00	\$535,500.00	\$25,000.00	\$16,250.00	\$519,250.00	\$3,250.00	\$522,500.00

Total Final Default Payment Due	\$522,500.00
Amount on Deposit for Auction 98	\$535,500.00
Outstanding Balance Remaining on Deposit for Auction 98	\$13,000.00

ATTACHMENT B

Refund Instructions

To receive a refund of any amount on deposit, The ERIE Radio Company, LLC must request a refund in writing with the following information: Any refund will be returned to the payer of record as identified on the FCC Form 159 for Auction 98, or on the wire transfer for Auction 98, unless the payer submits written authorization instructing otherwise.

All information listed here must be supplied in writing:

1. Name, address, contact and phone number of Bank,
2. ABA Number (capable to accept automated clearing house (ACH) payments),
3. Account Number to Credit,
4. Name of Account Holder, and
5. FCC Registration Number (FRN)

The refund request must be submitted by fax to the Revenue & Receivables Operations Group/Auctions at (202) 418-2843 or submitted by email to RROGWireFaxes@fcc.gov.

An applicant seeking a refund should verify that the taxpayer identification number (TIN) associated with its FCC Registration Number (FRN) is correct by visiting the FRN website at <https://apps.fcc.gov/cores> to update its records before submitting a refund request. A refund request related to an FRN with no TIN on file cannot be processed until a TIN is provided in CORES.

Refund processing generally takes up to two weeks to complete. Any questions concerning refunds should be directed to the Scott Radcliffe at (202) 418-7518, Scott.Radcliffe@fcc.gov, or Theresa Meeks at (202) 418-2945, Theresa.Meeks@fcc.gov. Auctions Accounting Branch staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.